

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN

PAMELLA MONTGOMERY, on behalf of
Herself and for the Benefit of All with the
Common or General Interest, Any Persons
Injured, and All Others Similarly Situated,

Plaintiff,

vs.

KRAFT FOODS GLOBAL, INC., a
Delaware Corporation; and STARBUCKS
CORPORATION, a Washington Corporation,

Defendants.

Civil Case No. 1:12-CV-00149-GJQ

**PLAINTIFF'S INDIVIDUAL
RESPONSE TO RULE 68 OFFER
OF JUDGMENT AND RESERVATION
OF APPELLATE RIGHTS**

**PLAINTIFF PAMELLA MONTGOMERY'S INDIVIDUAL
RESPONSE TO DEFENDANTS' JOINT OFFER OF JUDGMENT
PURSUANT TO FRCP 68 EXPRESSLY RESERVING
RIGHT TO APPEAL DENIAL OF CLASS CERTIFICATION**

NOW COMES Plaintiff, Pamela Montgomery, individually, through counsel, and
hereby timely responds to Defendants' Joint Offer of Judgment, served on Plaintiff on September
18, 2014, stating as follows:

1. In this Michigan Consumer Protection Case, Plaintiff Dr. Montgomery has alleged
claims individually and on behalf of the alleged putative class;
2. On or about August 20, 2013 Plaintiff filed her First Motion for Class Certification,
which Motion the Court denied by entry of a written Order and Opinion on May 9, 2014;
3. Since the denial of class certification, the parties have on multiple occasions
conferred and specifically contemplated resolution of Plaintiff's individual claims while
preserving Plaintiff's right to appeal the denial of class certification;

4. On September 18, 2014, Plaintiff's counsel received "Defendants' Joint Rule 68 Offer of Judgment for Plaintiff Pamela Montgomery," offering judgment in the amount of \$250.00 together with attorney fees and costs to be determined by the Court, as resolution of Plaintiff's individual claims;

5. Based upon the foregoing facts and circumstances, Plaintiff hereby **ACCEPTS** Defendant's Joint Rule 68 Offer of Judgment for Plaintiff Pamela [sic] Montgomery with the express qualification that Plaintiff's acceptance does not constitute a waiver of the right to appeal the Court's denial of class certification;

6. Plaintiff's Acceptance is intended to apply to her individual claims only, and is neither intended nor should it be construed as waiving or settling Plaintiff's appellate rights as to the issue of the Court's denial of class certification;

7. Plaintiff's Acceptance is not intended to divest or otherwise affect any Appellate Circuit's jurisdiction to review the issue of the Court's denial of class certification;

Dated: 01 October 2014

Respectfully submitted,

/s/Timothy McCarthy/

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